

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>FIDELITY NATIONAL TITLE</b>	)	
<b>INSURANCE COMPANY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:11-00253</b>
	)	<b>Judge Sharp</b>
<b>1ST TRUST TITLE, INC.;</b>	)	
<b>D. MARK LINEBERRY;</b>	)	
<b>L. KEITH WORSHAM,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

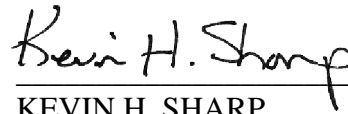
Pending before the Court is Defendant L. Keith Worsham’s Motion to Strike Affidavit of Jerome S. Grand (Docket No. 121), which was filed by Plaintiff in opposition to Defendant’s Motion for Summary Judgment. Defendant seeks to strike Mr. Grand’s affidavit, in whole or in part, because it allegedly contains inadmissible hearsay, is not based on personal knowledge, and contains improper legal arguments.

Motions to strike are governed by Rule 12(f) of the Federal Rules of Civil Procedure which specifically contemplates striking “immaterial impertinent, or scandalous matter” from pleadings. Fed. R. Civ. P. 12(f); see, Fox v. Michigan State Police Dep’t, 173 Fed. Appx 372, 375 (6<sup>th</sup> Cir. 2006). Mr. Grand’s affidavit is not a pleading, nor does it contain the type of material contemplated by Rule 12(f).

In any event, motions to strike are generally disfavored and, rather than striking material, a court may ignore inadmissible evidence. See, Dunavant v. Frito Lay, 2013 WL 816673 at \*5 (M.D. Tenn. Mar. 5, 2013); LuJan v. Southwest Airlines Co., 2008 WL 4791490 at \*6 (M.D. Tenn.

Oct.28, 2008) (noting that motions to strike are disfavored, but considering plaintiff's affidavit only to the extent that it was based on personal knowledge, set forth facts which would otherwise be admissible in evidence and did not directly contradict prior deposition testimony); Berry v. Frank's Auto Body Carstar, Inc., 817 F.Supp.2d 1037, 1041–42 (S.D. Ohio 2011) (footnote omitted) (“But motions to strike are disfavored; a Court should ignore inadmissible evidence instead of striking it from the record”). That is the approach this Court will take in this case, and the Motion to Strike Docket No. 121) is hereby DENIED.

It is SO ORDERED.

A handwritten signature in black ink, reading "Kevin H. Sharp". The signature is written in a cursive, flowing style. The first name "Kevin" is written with a large, prominent "K". The last name "Sharp" is written with a large, prominent "S". The signature is positioned above a horizontal line.

KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE